USSN:10/776,648

Attorney Docket No.: DWNS.62631

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U.S. Appln No. 10/776,648 Filed: February 10, 2004 Confirmation No. 2005

(Attorney's Docket No. DWNS.62631)

Art Unit: 1711 Inventor: Huzeir Lekovic et al

TITLE: LOW DENSITY ACOUSTIC

FOAMS BASED ON BIOPOLYMERS Examiner: John M. Cooney

Mail Stop Appeal Brief - Patents Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

REPLY APPEAL BRIEF

Sir:

This is Appellants' Reply Brief in response to the Examiner's Answer dated November 21, 2008.

Beginning at page 3 of the Examiner's Answer, the Examiner maintains the rejection of claims 1-9, 19-25 and 48-54 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. More specifically, with respect to Appellants' insertion of limitation to a "non-biopolymer," the Examiner maintains such is not supported by the specification as originally filed. Appellants' maintain that the disclosure as originally filed discloses both biopolymers explicitly, and "non-biopolymers" by implication and therefore Appellants' claims meet the requirements of 35 U.S.C. §112.

Appellant respectfully requests The Board to take judicial notice of the fact that the term "biopolymer" means, to a person of ordinary skill in the art, a polymeric substance formed in a biological system or naturally occurring in nature. The Board's attention is respectfully directed

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to the attached excerpt from Webster's Nine New Collegiate Dictionary, which defines a biopolymer as, "a polymeric substance (as a protein or polysaccharide) formed in a biological system." The Board's attention is also directed to the attached excerpt from Grant & Hackh's Chemical Dictionary, which defines biopolymer as "A naturally occurring macromolecule; as, produced by biosynthesis." Appellants' disclosure as originally filed disclosed and identifies biopolymers such as, but not limited to, castor oil, soy bean oil, and the like useful in making low density acoustic foams. These biopolymers are polymers that naturally occur in biosystems and are not man-made polymers. Appellants' specification as originally filed also discloses polymers that are made by man, including, but not limited, SPECFLEX NC 700 (Dow Chemical), VORANOL 391 (Dow Chemical), and JEFFOL A-480 (Huntsman Chemical), to name but a few examples. These man-made polymers do not naturally occur in a biological system and therefore are properly termed "non-biopolymers." Appellants' are entitled to amend the claims to include terminology that is not literally disclosed in the specification as filed but which is reasonably conveyed by the specification. Appellants are entitled to retreat or otherwise more clearly define terms in the claims provided that the specification reasonably conveys that Appellants were in possession of the claimed subject matter. Appellants, having disclosed man-made polymers which are not biopolymers, are entitled to amend the claims to use the term "non-biopolymer" in an effort to define the prior art.

Furthermore, the Examiner's Answer does not maintain any of the other rejections under 35 U.S.C. §112 set forth in the Final Office Action. Therefore, Appellants maintain that the sole issue for The Board's review under 35 U.S.C. §112 is whether Appellants' specification reasonably convey that Appellants were in possession of an invention defined by the use of the

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term "non-biopolymer" set forth in Appellants' claims. Appellants respectfully requests The

Board reverse the Examiner's rejections under 35 U.S.C. §112.

Appellants maintain that, with all issues under 35 U.S.C. §112 being resolved in

Appellants' favor, Appellants' claims define over the prior art for the reasons set forth in

Appellants' Appeal Brief.

In view of the foregoing arguments, and those set forth in Appellants' Appeal Brief,

Appellants respectfully requests The Board to reverse all of the rejections set forth in the

Examiner's Answer.

Respectfully submitted,

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Dated: January 21, 2009

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WEBSTER'S Ninth New Collegiate Dictionary



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milding)
167): a biological agent or condition coure laboratory conditions) that conmirronment; also: a hazard posed by stra-man-tä-shan, -men-\ n (1962) struments för recording and transmit-astronauts in flight) g-i-cal \-i-kal\ n (1921) : a biological

1: of or relating to biology or to life or produced by applied biology — bi-

herent timing mechanism that is in-ems (as a cell) in order to explain vari-dogical processes ction in numbers or elimination of pest heir ecology (as by the introduction of

i): BIOCHEMICAL OXYGEN DEMAND fare involving the use of living organ-oxic products against men, animals, or the use of synthetic chemicals harmful 1924) : preoccupation with biological scial situations - bi-ni-o-gis-tic \-, al-a-

ie, fr. bi- + -logie -logy] (1813) 1: o with living organisms and vital pro-mal life of a region or environment b im or group; broadly: ECOLOGY — bi-

hes-'n(t)s\ n [ISV] (1916) : the emis-ns, olso : the light so produced — blothe amount of living matter (as in a 2 t plant materials and animal waste

n (1966): material used for or suitable three contact with living tissues the three contact with living tissues the track of the track (1916): a major ecological community a\n pl but sing or pl in constr (1933) d esp. muscular activity (as in locomo-ical \i-kal\ adj — bio-me-chan-i-cal-ly

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hieneteo-rology _met-e-o-rail-o-je\ n (1946): a science that deals with the relationship between living beings and atmospheric phenom-

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hi-pheap! (Pib-'fer-'i. -'fer-' n [ISV] (1922): a white crystalline hydrocarbon (JH-C-H), under op, as a fact-transfer medium bi-pin-cate (-'pin-'sh' def (1794); she call-transfer medium bi-pin-cate (-'pin-'sh' def (1794); she call-transfer medium bi-pin-cate (-'pin-'sh' def (1794); an airplane with two main supporting surfaces usu, placed one above the other [1942] (1922); a two-legged sup-bi-pad ('bi-pin') (bi-pin') (bi-

port hipsplart (70b1-p0-lar), add (1810) 1: having or marked by two minus ally supellent forces or diametrically opposed natures or views 2. I having or involving the use of two poles 3: relating (n, associated); having or involving the use of two poles 3: relating (n, associated); having the poles of t

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CHEMICAL DICTIONARY

[American, International, European and British Usage]

Containing the Words Generally Used in Chemistry, and Many of the Terms Used in the Related Sciences of Physics, Medicine, Engineering, Biology, Pharmacy, Astrophysics, Agriculture, Mineralogy, etc.

Based on Recent Scientific Literature

FIFTH EDITION Completely Revised and Edited by

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The previous edition of this book was Hackh's Chemical Dictionary, 4th ed., published by McGraw-Hill in 1969. It was prepared by Dr., Julius Grant from a Chemical Dictionary compiled by Ingo W. D. Hackh. The current, or 5th, edition of this book was prepared by Dr. Roger L. Grant, whose father prepared the 4th edition.

The editors for this book were Betty J. Sun and Susan Thomas, the designer was Naomi Auerbach, and the production supervisor was Teresa F. Leaden. It was set in Palatino by University Graphics, Inc.

Printed and bound by R. R. Donnelley & Sons Company.

TABLE 15. BIOLOGY-RELATED SCIENCES

	ion	Biophysics Biochemistry
Morphology	Cells Tissues Organs Organisms	Cytology Histology Anatomy Taxonomy
Physiology	Generative Sustentative Correlative	Embryology Metabolism Circulation and nerves
PATHOLOGY	Plants	Phytopathology Zoopathology Pathology
Етюсосу	The race The individual	Phylogeny Ontogeny
CHOROLOGY	Plants	Flora Fauna Ecology
PALEONTOLOGY	Plants Animals Man	Paleobotany Paleozoology Ethnology

hiometry The application of statistics to biological science. biomolecule A molecule of protoplasm; a unit of living substance. Cf. idioblast, protoplasm.

bionomy The measurement of life phenomena. bio-osmosis The osmotic pressure of living cells. biophage A cell or organism feeding on living cells or organisms.

biophore Biomone. The smallest particle of living matter, consisting of protoplasm.

consisting of protoplasm. bioplasm Protoplasm. bioplast Micelle.

biopolymer A naturally occurring macromolecule; as, produced by biosynthesis.

biorization Pasteurization at 100-300 kPa.

bios $C_5H_{11}O_3N=133.1$. A crystalline substance similar in character to a viamin, which was found to be essential for the growth of certain types of yeast, m.223. Now known to consist principally of nicotinic acid and panthothenic

acid.
biose A carbohydrate containing 2 carbon atoms, e.g., HOCH₂·CHO. Cf. tetrose, hexose.

biosphere The air, land, sea, and water immediately surrounding mankind.

biosteriol C₂₂H₄₄O₂ = 340.7. An alcohol resembling

biota The flora and fauna of a region.

biotechnology The application of living organisms, or their biological systems or processes, to the manufacture of useful products; e.g., genetic engineering, q.v., single-cell protein, q.v., biogas, q.v., drugs (as, insulin) and chemicals from

blotic Pertaining to life or living organisms. biotin * $C_1 \partial_1 O_2 N_2 S = 244.3$. A member of the vitamin B complex, Yeasts and bacteria contain or make b. Deficiency occurs only if diet consists largely of raw eggs; their white contains an antivitamin, avidin. B. is a coenzyme for carboxylases. See vitamins, Table 101 on p. 622.

biotite A brown-black ferrous mica.

biotoxin A toxin formed in the tissues of the living body.

bioxalate Hydrogenoxalate*.
bioxyl Bismuthyl chloride.

hiozeolite A zeolitic biological slime from sewage filters. biperiden $C_{21}H_{29}ON=311.5$. Akineton. White crystals, insoluble in water; used to treat Parkinson's disease (USP, BP), hiphenyl (1)* $(C_0H_0)_2=154.2$. Phenylbenzene. Colorless

hiphenyleme (I)* The hypothekial compound GdH₂GdH₂CdH₂CdH₃ (Q) The radical —GHL₂GH₃CdH₃ - Bhiszor The radical —NNG4H₂CdH₂CdH₃NN—b oxide Diphenylenefuran hiphenyly! Ell-phenylly! Ell-phenylly! Elhenyl, diphenyl; zenyl (para oxly). The radical CdH₂ GdH₃ - from tiphenyl; zenyl (para oxly). The radical CdH₃ GdH₃ - from tiphenyl; zenyl (para oxly). The Benddine* b. bimide Carbaszole* hamises Animohiphenyl; d. 4.4* ~ Benddine* b. bimide Carbaszole* hamcracy (PhCH₄)Hg = 970. White scales, m.216*. BIPP A mixture of bismuth, bodoform, and paraffiny an antiseptic paste for infected wounds.

bipropargyl 1,5-Hexadiyne*. bipropenyl 2,4-Hexadiene*.

bipseudoindoxyl Indigo. bipyridyl* NH₄C₅·C₅H₄N = 156.2. Dipyridyl, bipyridine?

	m.	b.	Water solubility
2.2'-	70	272	Slight
2,3'-	liquid	288	Insoluble
2,4'-	62	281	Slight
3.3'-	68	291	Very soluble
3.4'-	61	297	Very soluble
4.4'-	114	305	Hot only

biquinoline* $C_{18}H_{12}N_2 = 256.3$. Diquinoline. $2.2' \sim C_{rystals}$, m.196. $2.3' \sim Yellow crystals$, m.176. $0.6'' \sim C_{rystals}$, m.181. biquinoly!* $C_{18}H_{12}N_2 = 256.3$. Diquinolyl, biquinoline. $2.2' \sim m.196$:

8.8'-~ Brown crystals, m.94; reagent for cuprous ions (purple complex soluble in many solvents; sensitivity 0.2 nom).

pom), hitch A tree of the genus Betula. b. campbor Betulinol. b. oil Sweet b. oil, betula oil. The essential oil from the bank of Betula tent, black blich. Colortess oil, d. 1.127-1.138, 129-222 (chief constituent is methylsality; late); a flavoring and limitment. b. tear oil A tarry oil from the wood of Betula allo, white birch. Brown oil with empyreumatic odor, d.0.886-9059, osluble in alcohol (chief constituents phenois and cressda). Used in eintments and in leather dressing. b. wood earbon Norit.